

S.B.CIVIL WRIT PETITION NO.1070/1995

Mahesh Kumar Sharma
V.
Judge, Labour Court-cum-Industrial Tribunal, Bhilwara
and others.

DATE OF ORDER :: 9th February, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. C.P.Trivedi, for the petitioner.
Ms. Aditi Lodha, for the respondents.

....

By this petition for writ a challenge is given to the award dated 13.1.1994 whereby the learned Industrial Tribunal, Bhilwara while negating the reference made to it by appropriate government under the notification dated 15.12.1989 held that the date of initial appointment of the workman was rightly treated as 31.7.1971 by the employer and no penalty as said by the workman was imposed by the Regional Manager, Rajasthan State Road Transport Corporation, Ajmer.

The factual matrix necessary for adjudication of this petition for writ is that a reference of an industrial dispute was made by the appropriate government to the Industrial Tribunal, Bhilwara in terms as to whether the Regional Manager, Rajasthan

State Road Transport Corporation, Ajmer rightly imposed the penalty upon the workman and rightly determined the date of his initial appointment, if not then for what relief the workman is entitled.

In statement of claim the workman stated that the appointment to him was given on 20.7.1970 but the employer in his service book entered 31.7.1971 as the date of initial appointment. The same, therefore, is contrary to the factum of appointment given to him. It was also stated that for the years 1972 to 1975 and 1977 the annual grade increments were not released by the employer.

In written, the employer stated that after making appointment of the workman on 17.4.1970 he was terminated from service on 2.7.1970 and thereafter re-employed on 31.7.1971, as such the date of his initial appointment was rightly treated as 31.7.1971. A specific averment was also made that no penalty as alleged was imposed by the Regional Manager, Rajasthan State Road Transport Corporation, Ajmer. On basis of pleadings and the material available on record learned Industrial Tribunal held that the date of appointment of the workman was rightly considered as 31.7.1971 and also that the penalties were not imposed by the Regional Manager, Rajasthan State Road Transport Corporation, Ajmer and, therefore, that question could not be answered.

While giving challenge to the award impugned it is contended by counsel for the petitioner that once the reference was made to the Industrial Tribunal by appropriate government, the Tribunal should have decided the question with regard to imposition of penalty by the Corporation.

Heard counsel for the parties.

The appropriate government under the notification dated 15.12.1989 made a specific reference to the effect that whether the Regional Manager, Rajasthan State Road Transport Corporation, Ajmer was right in imposing a penalty upon the workman. The Regional Manager, Rajasthan State Road Transport Corporation, Ajmer in its reply in quite unambiguous terms stated that no penalty was imposed upon the workman by him as in the period concerned the workman was not working within his jurisdiction. In light of the specific statement of the Regional Manager, Rajasthan State Road Transport Corporation, Ajmer the Industrial Tribunal rightly denied to adjudicate the issue. It is pertinent to note that the reference was quite specific with regard to the act of the Regional Manager, Rajasthan State Road Transport Corporation, Ajmer and when no penalty admittedly was imposed by him, there was no occasion for the Tribunal to decide that issue.

The question with regard to date of initial appointment has not been pressed into service by counsel for the petitioner.

Accordingly, I do not find any error in the award impugned. The writ petition, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.